



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Bava Basra Daf Kuf Lamed Hey

- There was a man who was dying and the people asked him, "who is your wife going to be mutar to marry after your death?" (they were asking whether she was subject to yibum). The man replied, "she is mutar to anybody" (suggesting that he had divorced her so that she would not be subject to yibum). **Rava** said, there is no reason not to treat her as being fully mutar, because **R' Chiya bar Abba in the name of R' Yochanan** said that a husband is believed to say that he divorced his wife. **Abaye** asked, **R' Yitzchak bar Yosef in the name of R' Yochanan** said that a husband is not believed to say that he divorced his wife, so how could we rely on the version of **R' Chiya bar Abba!**? **Rava** said, we explained earlier that there may be no argument, and all agree that he is not believed with regard to the past, but is believed for the future! **Abaye** said, can we rely on that explanation to the point of allowing her to marry anyone of her choosing without chalitza? **Rava** thereafter told **R' Nosson bar Ami**, we must be concerned and can't allow her to marry without first getting chalitza.
- There was a man about whom there was a chazakah that he had no brothers, and at the time of his death he said that he had no brothers. **R' Yosef** said, there is no reason to be concerned and not allow his wife to marry, because we have a chazakah that he has no brothers, and he said so himself as well. **Abaye** asked, but people are saying that there are witnesses overseas who say that he does have a brother!?! **R' Yosef** said, the alleged witnesses are not here now, and **R' Chanina** has said in another case that we do not make someone assur based on alleged testimony. **Abaye** said, **R' Chanina** said that regarding women who were captured by goyim, where we are meikel, but we cannot necessarily extend that to be meikel in a case of a married woman. **Rava** thereafter told **R' Nosson bar Ami**, we must be concerned and can't allow her to marry without first getting chalitza.

ZEH ACHI EINO NE'EMAN

- **Q:** What are the other brothers saying? If they also say that this person is a brother, then they should all share their portions with him!?! If they say that he is not a brother, then why do they inherit him if he dies!?! **A:** The case is that they say they do not know if he is a brother.
 - **Rabbah** said, the Mishna teaches that if a person tells another, "you owe me a maneh" and the other person replies, "I don't know whether I owe you a maneh", he is patur from having to pay.
 - **Abaye** said, it may be that such a person would be chayuv. Our Mishna is not that case, because our Mishna is like a case of where someone says to another, "you owe a maneh to a third person". In that case all would agree that even if he responds with "I don't know if I do", he would be patur.

MEIS YACHZIRU NICHASIM LIMKOMAN

- **Q:** **Rava** asked, what if there were improvements that happened to the property on its own while it was in the possession of this alleged brother? Are the improvements also only inherited by the brother who made the claim (that this person was a brother) or is it shared by all the brothers? Now, if it is produce that is fully grown and ready to be cut, all would agree that it is considered to be a separate asset and would therefore be inherited by all the brothers. The question is in regard to an improvement that is not at that level – for example if it was a palm tree that got stronger, or land that got more nutrients. What is the halacha? **TEIKU**.

MISHNA

- If a person died and a "daitiki" (the will of a deathly ill person) was found tied to his thigh (so there is no reason to fear this was forged), it is not considered to be valid or controlling. If the dying person had given the document to someone other than the one named in the document

in order for him to be koneh for the person named in the document, then whether or not the named person is an heir of the person who has died, the document is effective.

GEMARA

- A Braisa explains, the word “daitiki” is a contraction of the words “this shall be to establish and continue”, and is used by a person who is dying to say that if he dies, this property should be given to whoever he lists in the document. The term “matanah” refers to a gift that is given to take effect “today and after I die”.
 - **Q:** Does this mean to say that a simple, immediate gift is ineffective? **A: Abaye** said, the Braisa is trying to give a scenario of a gift of a healthy person that is like a gift of a sick person. That scenario is where a healthy person gives a gift “today and after I die”. In this case, the beneficiary will only be koneh after the death of the one who made the gift.
- **Rabbah bar R’ Huna in the name of R’ Yochanan** said, if a deathly ill person said, “write a document and give a maneh to ploni”, and he died before it was given, we do not write the document or give the money, because it may be that he only wanted to give the gift through the document, and a document is not effective after death. **R’ Elazar** told the talmidim to be careful with this halacha, because we pasken like it. **R’ Shizbi** said that it was **R’ Elazar** who said the halacha, and it was **R’ Yochanan** who told the talmidim to carefully follow it.
 - **R’ Nachman bar Yitzchak** said, the version of **R’ Shizbi** seems more logical, because if it was **R’ Elazar** (the talmid) who said the halacha, it makes sense that **R’ Yochanan** (the rebbi) would then offer his support for the ruling. However, if it was **R’ Yochanan** who said the ruling, why would **R’ Elazar’s** support be needed? Also, we can prove that it was **R’ Elazar** based on that we find that **Ravin** sent in the name of **R’ Avahu**, that **R’ Elazar** sent in the name of **Rav** that if a deathly ill person said, “write a document and give a maneh to ploni”, and he died before it was given, we do not write the document or give the money, because it may be that he only wanted to give the gift through the document, and a document is not effective after death, and **R’ Yochanan** said “it should be looked into”.
 - **Q:** What is meant by saying “it should be looked into”? **A:** It is based on the ruling of **R’ Dimi**, which said that if a deathly ill person said, “write a document and give a maneh to ploni”, and he died before it was given, we examine to see if he meant to strengthen the position of the beneficiary by having it written in a document, in which case we would even write the document and give him the maneh after the dying man’s death. If we decide that was not the intent of having it written, we do not write the document or give the money after his death. This is what **R’ Yochanan** meant when he said “it should be looked into”.
 - **Q: R’ Abba bar Mamal** asked, a Braisa says, if a healthy person said, “write a document and give a maneh to ploni” and he died before it could be done, we do not write the document or give the maneh. This suggests that in the case of a dying man we *would* write the document and give the maneh even after his death!? **A:** He himself answered, this Braisa is talking about a case where we determine that he wanted it to be written to strengthen the position of the beneficiary.
 - **Q:** When do we assume that he meant to strengthen the position of the beneficiary? **A:** The case would be similar to what **R’ Chisda** said elsewhere, where the dying person said, “also write it in a document, sign it, and give it to him”. This suggests that he meant to give it with his oral instruction, and to strengthen that giving with the written document.
 - We learned, **R’ Yehuda in the name of Shmuel** said, the halacha is that in this case we would write the document and give it to the beneficiary even after the dying man’s death. **Rava in the name of R’ Nachman** paskened this way as well.